

REMARKS

In an Office Action dated 22 March 2007, the Examiner rejects claims 1-21 (all Pending Claims). In response to the Office Action, Applicants amend claim 8 and respectfully traverse the rejection. Claims 1-21 (All Pending Claims) remain in the application. In light of the following arguments, Applicants respectfully request that this application be allowed.

Applicants have amended claim 8 to recite the same limitation of requiring at substantially 13% by weight of the mixture water similar to claim 1. Applicants assert that there is no new matter entered by this amendment. Support for the amendment being found at paragraph 22 of the specification. Rationale supporting this assertion is given below with regards to the 35 U.S.C. § 112(1) rejection of claim 1.

The Examiner has rejected claims 1-7 under 35 U.S.C. §112(1) for failing to meet the written description requirement. In response to last Office Action and Advisory Action, Applicants amended claim 1 to recite that water is 13% of said mixture. Applicants contend this amendment is supported by paragraph 22 in the specification. Specifically, Applicants contend that the statement “The water would flow at a rate of about 0.13 gpm in an emulsifying system with a capacity of about 1 gpm.” supports the amendment. The Examiner asserts that the percentage does not hold because the specification does not set forth that the system is run at full capacity.

Applicants respectfully remind the Examiner that the MPEP and case law state: “While there is no *in haec verba* requirement, newly added claim limitations must be supported in the specification through express, **implicit**, or inherent disclosure (emphasis added). See MPEP §2163. See also *In re Oda*, 443 F2d 1200, 170 USPQ 268 (CCPA 1971). In the instant case, Applicants assert that it is clear the system running at a 1gpm capacity has 0.13 water added to the emulsion. One skilled in the art would see that it is implicit that the system is running at a 1 gpm capacity when .13 gpm of water is added. Any other interpretation defies common sense because 0.13 gpm of water would be added to the emulsion regardless of the rate of the system. The mixture would produce emulsion products that are inconsistent in their chemical make up.

However, even if the Applicant’s interpretation of the sentence is incorrect, the Examiner’s assertion is also incorrect as it can easily be inferred from the sentence in paragraph 22 that Applicants are stating that .13 gpm of water is to be added for each 1gpm of emulsion made. For these reasons Applicants, respectfully request that the Examiner remove the rejection of claim 1 and allow claim 1.

Claims 2-7 are dependent from claim 1. Thus, claims 2-7 are allowable for at least the same reasons as claim 1. Thus, Applicants respectfully request the rejections of claims 2-7 be removed and claims 2-7 be allowed.

In the Office Action, the Examiner rejects claim 8 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent issued to Nixon (Nixon). In order to

maintain a rejection the Examiner has the burden of providing evidence of prima facie obviousness. See MPEP §2143. See also In Re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). In order to prove prima facie obviousness, the Examiner must provide evidence in the prior art of a motivation to combine or modify a reference, a reasonable expectation of success, and a teaching of each and every claimed element. Id. The Examiner has failed to produce evidence that each and every claimed element of amended claim 8.

Specifically, amended claim 8 recites “blending a flow of fuel soluble product, a flow of stabilizer, and a flow of water in a mixing vessel to form a mixture wherein water is substantially 13% of said mixture.” Nixon does not teach this element. Instead, Nixon teaches a fuel emulsion for jet fuel in which the amount of water in the mixture is minimized to prevent corrosion. In fact, Nixon specifically states that water is a problem and should be minimized. See Col. 2, line 46-53. In the present invention, water is added to reduce emissions of NO_x compounds by causing the fuel to burn at lower temperatures. Nixon specifically teaches that in normal transportation and storage some water will be added to the fuel. See Col. 1, lines 56-70. Furthermore, the amount of water in the fuel is small and may not even exceed 1.5 % by weight of total emulsion that is much less than the 13% recited in the claims and taught in the specification. Id. The difference between Nixon and the present invention is the water is minimal and due to natural seepage and separation in Nixon. In the present invention, the added water is significantly greater than natural seepage. In this invention, the water added during

the mixing makes a fuel that reduces NO_x. Thus, Nixon does not teach the blending of a flow of water with the other materials as recited in amended claim 8. Thus, Applicants respectfully request that the rejection of claim 8 be removed and amended claim 1 be allowed.

Claims 9-21 are dependent from claim 8. Thus, claims 9-21 are allowable for at least the same reasons as claim 8. Thus, Applicants respectfully request that the rejections of claims 9-21 be removed and claims 9-21 be allowed.

If the Examiner has any questions regarding this response or the application in general, the Examiner is invited to telephone the undersigned at 775-586-9500.

Respectfully submitted,
SIERRA PATENT GROUP, LTD.

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/william p. wilbar/

William P. Wilbar
Reg. No: 43,265

Sierra Patent Group, Ltd.
1657 Hwy. 395, Suite 202, Suite 202
Minden, NV 89423
(775) 586-9500